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Washington, DC 20005-3315

In re Application of van Scharrenburg et al	:	
U.S. Application No.: 09/555,139	:	DECISION ON
Int. Application No.: PCT/EP98/07553	:	
Int. Filing Date: 24 November 1998	:	REQUEST FOR STATUS
Priority Date: 25 November 1997	:	
Attorney Docket No.: 01975.0024	:	UNDER 37 CFR 1.42
For: VACCINES WITH AN LTb ADJUVANT	:	

This is in response to the papers filed 28 July 2000. The submission is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 24 November 1998, applicants filed international application PCT/EP98/07553, which claimed priority of an earlier European Patent Office application filed 25 November 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 03 June 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 07 May 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 May 2000.

On 25 May 2000, applicants filed national stage papers with the United States Designated/Elected Office (DO/EO/US) under 35 U.S.C. 371 including, inter alia, the requisite basic national fee.

On 28 June 2000, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/US/905) indicating that an oath or declaration under 37 CFR 1.497 must be filed along with a surcharge for providing the oath or declaration later than thirty months from the priority date.

On 28 July 2000, applicants filed a declaration signed by all of the inventors except Etienne Agsteribbe, who according to the declaration is deceased.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." The declaration filed 28 July 2000 is not acceptable because it is not executed by the legal representative of Etienne Agsteribbe on his/her behalf. Furthermore, the declaration filed 28 July 2000 does not identify the citizenship of any of the inventors.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request for status is desired, a proper response must be filed within ONE (1) MONTH from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42". No petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to file a proper response to this decision will result in ABANDONMENT of the application.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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